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PATENT APPLICATION

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AUG 25 2005

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Robert G. Gann

Confirmation No.: 3197

Application No.: 09/845852

Examiner: Sohn, Seung C.

Filing Date: Apr 30, 2001

Group Art Unit: 2878

Title: Detecting A Defect In An Image In An Image Scanner (as Amended)

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Sir:

Transmitted herewith in *triplicate* is the Reply Brief with respect to the Examiner's Answer mailed on 07/26/2005. This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new grounds of rejection.)

No fee is required for filing of this Reply Brief.

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Number of pages: 4

Typed Name: Donna M. Kraft

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Respectfully submitted,

Robert G. Gann

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PATENT APPLICATION**ATTORNEY DOCKET NO. 10012822-1**

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Robert G. Gann**Serial No.: 09/845,852****Examiner: Sohn, Seung C.****Filing Date: 04/30/2001****Group Art Unit: 2878****Title: DETECTING A DEFECT IN AN IMAGE IN AN IMAGE SCANNER**

**COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450**

REPLY BRIEF

1. The rejection of claims 2-3 and 11-12 under 35 USC 112 has been withdrawn. Accordingly, the section of the brief addressing the second ground of rejection may be ignored. The section entitled Status of Claims should now read as follows:

Claims 1-18 are pending in the application.

Claims 6-9 and 15-18 are withdrawn from consideration.

Claims 1, 3, and 10 have been finally rejected.

Claims 2 and 11-14 are allowed.

Claims 4-5 are objected to.

Claims 1, 3, and 10 are on appeal.

2. Regarding claims 1 and 10 and the word "normal", in the Examiner's Answer, section (10), the examiner states: "It is hard to conclude that everyone in the art could always have the same range of numbers as normal since the word "normal" is an indefinite

and subjective term.” 35 USC § 112, second paragraph does not require everyone in the art to have the same range of numbers, and does not require interpretation of “normal” in a vacuum. From MPEP 2173.03: “The test for definiteness under 35 USC 112, second paragraph, is whether ‘those skilled in the art would understand what is claimed when the claim is read in light of the specification.’” Understanding what “normal” means in light of the specification does not require everyone in the art to have the same range of numbers.

3. Regarding claim 3, in essence the argument can be reduced to what is meant by “physically corresponding to”. The examiner has adopted a definition of “physically corresponding to” that is inconsistent with dictionary definitions or common usage by one skilled in the art, and is inconsistent with the specification. In essence, the examiner is asserting that given a particular photosensor, all other photosensors in an array have a physical correspondence to that photosensor. From the Merriam-Webster Online Dictionary:


Main Entry: corresponding

Function: *adjective*

1 a : having or participating in the same relationship (as kind, degree, position, correspondence , or function) especially with regard to the same or like wholes (as geometric figures or sets) <*corresponding* parts of similar triangles>

Given a particular photosensor, all the other photosensors in an array have some physical positional relationship to the particular photosensor, but from the dictionary definition physical correspondence requires a same physical relationship to the particular photosensor, such as the same row, or same column, etc. This is consistent with applicant’s usage in the specification. From MPEP 2111, during examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. The examiner has provided no authority for the examiner’s definition, no authority for such a definition by one skilled in the art, no authority for the reasonableness of the definition, and the examiner’s definition is inconsistent with the specification.

Respectfully submitted,



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August 24, 2005

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